

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

In re:)	Third Interim Application
)	for Compensation for
)	Chief Restructuring Office and
)	Independent Contractor
Play Beverages, LLC)	Bankruptcy No. 11-26046 JTM
)	
)	(Chapter 11)
Debtor.)	

THIRD INTERIM APPLICATION OF CHIEF RESTRUCTURING OFFICER AND
INDEPENDENT CONTRACTOR FOR ALLOWANCE OF COMPENSATION AS AN
ADMINISTRATIVE EXPENSE

TO: THE HONORABLE JUDGE JOEL T. MARKER, UNITED STATES BANKRUPTCY
JUDGE:

The application of Gil Miller, Chief Restructuring Officer and Rocky Mountain Advisory ("RMA"), Independent Contractor ("Applicant"), of the above referenced estate, respectfully represents:

1. On the 26th of April, 2011, the above referenced debtor filed a Chapter 7 proceeding. On the 12th of August, 2011, the case converted to a Chapter 11 and is a Debtor-in-Possession.

2. Pursuant to an application with the Court; your Applicant was employed as Chief Restructuring Officer and Rocky Mountain Advisory as Independent Contractor of the estate of the above named debtor.

3. Pursuant to 11 U.S.C. § 328, Applicant makes this application for an allowance for reasonable compensation for services rendered by the Applicant in this proceeding from July 1, 2012 through and including October 31, 2012.

4. All services for which Applicant seeks compensation were performed for and on behalf of said bankruptcy estate and not on behalf of any other estate or individual creditor or other person, and no agreement or understanding exists between Applicant and any other persons for division of compensation.

SUMMARY OF SERVICES RENDERED

5. Applicant has rendered professional services to the Trustee, including the following:

a. BUSINESS ANALYSIS

- Assisted and advised the Debtor in efforts to assume the pre-petition product license agreement with Playboy.
- Assisted and advised the Debtor in resolving disputes with Playboy, and secure future license rights from Playboy.
- Participated in several face-to-face and many telephonic settlement discussions and meetings with Playboy.
- Analyzed and responded to written term sheets and settlement proposals.
- Assisted and advised the Debtor in a plan of reorganization.

b. CASE ADMINISTRATION

- Review case documents and court filings.
- Review accounting records and accounts receivable register.
- Review operating results and reports.

c. FEE APPLICATIONS

- Review second interim fee application.

FUTURE SERVICE

6. Your Applicant continues to provide services as directed by the Debtor-in-Possession.

COMPENSATION PAID AND/OR PROMISED AND ITS SOURCE

7. Your Applicant has received \$57,576.81 for approved fees and expenses from the first and second interim application.

8. There is no agreement or understanding between your Applicant and any other source for services rendered or to be rendered in any capacity in connection with this case.

9. Pursuant to the terms of the RMA Application and the RMA Employment Order, RMA is holding retainer funds in the total amount of \$47,423.19. The source of the retainer funds held by RMA is capital contributions by one of the Debtor's equity owners, Fadi Nora, earmarked solely for payment of RMA's retainer.

10. There is no agreement or understanding between your applicant and any other person for the sharing of the compensation to be received for the services rendered in this case.

11. RMA has not made any agreements with the Debtor or others for compensation reimbursement relating to this Case which have not been disclosed to the Court.

PERSONNEL

12. The following individuals billed time in this application. Total time billed by each person by project is included in Exhibit A.

<u>Personnel</u>	<u>Hourly Rate</u>
Gil A. Miller	\$345
David N. Bateman	250
Matt H. Connors	230
Dan L. Johnson	205
Raani Erekson	80

DISBURSEMENTS

13. Your Applicant has been required to spend \$5.00 as Chief Restructuring Officer and RMA as Independent Contractor for the period July 1, 2012 through and including October 31, 2012, for copying documents, travel expenses, and for other actual and necessary expenses as outlined in detail on the itemizations of actual expenses attached hereto (Exhibit A). Accordingly, the disbursements Chief Restructuring Officer and RMA as Independent Contractor for the period July 1, 2012 through and including October 31, 2012 are \$5.00.

EVALUATION OF SERVICES

14. For the period July 1, 2012 through and including October 31, 2012, your Applicant has rendered services valued at \$33,693.00 as Chief Restructuring Officer and RMA as Independent Contractor in connection with the above matters. This amount is based on services having been performed by various members of your Applicant's accounting firm and are itemized in detail on the attached time summary (Exhibit A). Services have been rendered at the reasonable rates identified in the attached time summary. Such rates are comparable to those charged by other accounting firms for comparable accounting services in the Salt Lake City, Utah accounting community for the time period indicated herein.

WHEREFORE, your Applicant prays that it be awarded and paid the sum of \$33,693.00 for compensation for professional accounting services and \$5.00 reimbursement of expenses incurred by your Applicant as Chief Restructuring Officer and RMA as Independent Contractor in this case for a total amount of \$33,698.00 for the period July 1, 2012 through and including October 31, 2012.

DATED this 9th day of November, 2012.

/s/ Gil A. Miller
Chief Restructuring Officer and
ROCKY MOUNTAIN ADVISORY, LLC,
Independent Contractor

EXHIBIT A

Rocky Mountain **RMA**
ADVISORY

215 South State Street
Suite 550
Salt Lake City, UT 84111
801.428.1600

Play Beverages, LLC
Attn: Iehab J. Hawatmeh
4125 South 6000 West
West Valley, UT 84128

November 12, 2012
Invoice # 10711

Billing for: 07/01/12 to 10/31/12

RE: Play Beverages, LLC

Previous balance	\$14,375.98
8/22/2012 Payment from account	(\$14,375.98)
Total payments and adjustments	(\$14,375.98)

Professional Services Summary

Name	Hours	Rate	
Gil A. Miller	64.90	345.00	\$22,390.50
David N. Bateman	0.30	250.00	\$75.00
Matt H. Connors	0.50	230.00	\$115.00
Dan L. Johnson	53.70	205.00	\$11,008.50
Raani Ereksen	1.30	80.00	\$104.00

Professional Services Detail

Date	Init.	Description	Hours	
<u>Business Analysis</u>				
07/02/12	GAM	Review correspondence from Playboy counsel and begin review of red line license agreement (.9). Call with M. Boley regarding revisions to license (.5). Call with client and counsel regarding license revisions (.9).	2.30	\$793.50
07/03/12	GAM	Call with counsel and client to discuss latest version of license agreement (.8). Conference call with counsel and Playboy to discuss license revisions (1.0).	1.80	\$621.00

Play Beverages, LLC

November 12, 2012

Date	Init.	Description	Hours	
07/09/12	GAM	Conference call with parties to discuss license agreement and plan (.8). Review proposed response email to Playboy (.1). Conference call with client and counsel to review Playboy conference call (.3).	1.20	\$414.00
07/10/12	GAM	Prepare for and meet with counsel and Playboy counsel to discuss draft disclosure statement language.	1.80	\$621.00
07/11/12	GAM	Review various emails from Playboy and respond to counsel.	0.30	\$103.50
07/13/12	GAM	Review correspondence from Playboy regarding Plan comments.	0.20	\$69.00
07/18/12	GAM	Call with counsel to discuss all outstanding license and settlement agreement terms (.7). Review latest drafts of APA, license agreement, and settlement agreement and arrange for conference call with parties (1.2). Call with D. Johnson regarding APA/CBC settlement agreement terms and audit procedures (.7) Calls with counsel regarding Beckett client claims and license agreement teleconference (.4).	3.00	\$1,035.00
	DLJ	Meeting with G. Miller concerning analyses to be performed (.7). Create document request and provide to E. Van Stam (.4). Call with E. Van Stam concerning the same (.1). Review new asset purchase agreement (.2). Review distribution agreement and notes related to the same (.3). Work on retainer reconciliation and provide to E. Van Stam (.3). Communications with G. Miller concerning the same (.1).	2.10	\$430.50
07/19/12	GAM	Review various email chains regarding license and settlement agreements and prepare for tomorrow's conference call with Playboy.	1.50	\$517.50
07/20/12	GAM	Prepare for and meet with client to prepare for Playboy conference call (1.2). Conference call with Playboy regarding license and settlement agreements (1.0). Prepare summary of call for counsel and correspond with counsel (.5).	2.70	\$931.50
	DLJ	Follow up with E. Van Stam concerning requested data.	0.20	\$41.00
07/23/12	DLJ	Communications with E. Van Stam concerning set up of meeting time and requested documents.	0.20	\$41.00
07/25/12	GAM	Correspond with R. Sagan regarding Rock Star Energy Drink (.2). Internal call with counsel to discuss upcoming conference call with Playboy (.5). Conference call with Playboy to discuss settlement agreement and license agreement issues (1.2). Phone call with counsel to discuss fundamental issue with license agreement (.3).	2.20	\$759.00
	DLJ	Request documents and reschedule meeting time with E. Van Stam.	0.20	\$41.00
07/26/12	GAM	Prepare for and meet with T. Beckett to discuss Plan treatment of his clients (1.3). Internal call with client and counsel to discuss license agreement (1.0). Call with R. Sagan regarding license issue (.7). Review new language for license agreement, discuss Sagan call	4.40	\$1,518.00

Play Beverages, LLC

November 12, 2012

<u>Date</u>	<u>Init.</u>	<u>Description</u>	<u>Hours</u>	
		with client and counsel (.5). Conference call with Playboy to discuss license agreement charges (.8). Call with client regarding his Sagan call today (.1).		
07/26/12	DLJ	Communications with E. Van Stam concerning requested data (.2). Review financial statements received and create analysis of charges to Playbev since inception (1.2).	1.40	\$287.00
07/27/12	GAM	Pull all documents to discuss on this mornings internal call and review (.6). Conference call with counsel and client regarding changes to license and settlement agreements (1.1).	1.70	\$586.50
	DLJ	Continue analysis and reconciliation of note payable and compile questions for meeting with CFO related to the same.	0.70	\$143.50
07/30/12	GAM	Review emails regarding revisions to agreements and respond (.4). Call with counsel and client in preparation for conference call with Playboy (.5). Conference call with Playboy regarding final drafts of agreements (.7). Subsequent conference call with Playboy to finalize agreements and license extension (.6). Review revisions to agreements; sign extension agreement (.3).	2.50	\$862.50
07/31/12	DLJ	Communications with G. Miller to set up meeting to discuss requested analyses (.2). Follow up with E. Van Stam on outstanding data request and meeting time (.1). Analyze note receivable data and recalculate interest charges, identify largest charges by vendor and create question list for meeting with G. Miller and E. Van Stam (2.1).	2.40	\$492.00
08/01/12	DLJ	Follow up with E. Van Stam on meeting time and data request.	0.20	\$41.00
08/03/12	GAM	Respond to R. Sagen emails regarding the execution of arguments.	0.30	\$103.50
08/06/12	GAM	Prepare for and meet with client and counsel to discuss license agreement (2.5). Conference calls with client and Playboy regarding license agreement final terms (3.0). Review various revisions to license agreement (.5).	6.00	\$2,070.00
	DLJ	Analyze note payable detail and continue to outline areas for discussion and further review (.6). Prepare preliminary analyses for meeting with G. Miller (.5). Meeting with G. Miller regarding the same (.2). Follow up with E. Van Stam on requested data and meeting time (.1).	1.40	\$287.00
08/07/12	GAM	Calls with counsel to discuss final draft of license agreement and email to Playboy regarding final issues (.5). Prepare and send correspondence to Playboy regarding final license issues (.3). Review final drafts and execute settlement agreement (.3). Meet with staff to discuss CBC APA and claim settlement (.2).	1.30	\$448.50
	DLJ	Meeting with G. Miller to discuss various analyses and follow up with counsel regarding the same (.4). Review case notes and received schedules and update data request (.4).	0.80	\$164.00

Play Beverages, LLC

November 12, 2012

Date	Init.	Description	Hours	
08/08/12	GAM	Review correspondence and emails regarding lease agreements and exhibits and respond to counsel (1.2). Work on CBC claim value and CBC APA (1.2).	2.40	\$828.00
	DLJ	Schedule meeting to meet with E. Van Stam (.1). Call with E. Van Stam regarding meeting and preparations (.2). Review data, update analyses and prepare questions for meeting with E. Van Stam. (1.2). Meetings with G. Miller regarding analyses and timelines (.2). Review Asset Purchase Agreement and plan or reorganization documents (.6). Meeting with E. Van Stam to review note payable analysis and support (1.8). Prepare document request (.4). Review documents received (.2).	4.70	\$963.50
08/09/12	GAM	Review numerous drafts of changes to license agreements exchanged between the parties (.3). Call with counsel regarding open issues on license exhibits (.1). Call with counsel regarding CBC claim (.2). Meet with staff to discuss CBC claim and APA (.5).	1.10	\$379.50
	DLJ	Analyze note payable amounts related to large dollar value payees and prepare questions related to each (.6). Call with Kathy at CBC to discuss each vendor and the purpose of the charges as they relate to Playbev (.5). Meeting with G. Miller regarding the same (.3). Review asset purchase agreement as it relates to the Debtor's plan of reorganization (.7). Analyze supporting documentation provided related to various vendors, payroll and AMEX charges (.5). Begin preparation of report of findings (.4).	3.00	\$615.00
08/10/12	DLJ	Continue analysis of accounts payable and drafting of report findings (2.2). Communications with Kathy regarding various issues (.2).	2.40	\$492.00
08/13/12	GAM	Prepare for and meet with counsel and client to discuss Plan issues and possible modifications (1.9). Meet with counsel to discuss CBC claim and APA (.7). Meet with counsel and client to discuss CBC claim and APA (1.8).	4.40	\$1,518.00
	MHC	Discussion with G. Miller and M. Boley regarding valuation of intangible assets.	0.50	\$115.00
	DLJ	Review asset purchase agreements, calculations related to asset purchase, and create memo of analysis procedures and findings (2.1). Create and update calculations and exhibits to be used in meetings with counsel and Iehab (1.4). Meetings with G. Miller regarding analyses, memo and findings (.5). Meetings with counsel regarding the same (.7). Meeting with G. Miller, Iehab and M. Boley (1.2). Calls with Kathy and Ed regarding questions related to asset purchase analysis and note receivable analysis (.4). Discuss	7.30	\$1,496.50

Play Beverages, LLC

November 12, 2012

<u>Date</u>	<u>Init.</u>	<u>Description</u>	<u>Hours</u>	
		intangible asset valuation with M. Connors (.3). Document and data request (.3). Review note receivable detail and make updates to analyses (.4).		
08/14/12	GAM	Work on reconciliation of CBC claim, prepaid deposits, and officer wage claims (2.1). Call with counsel regarding CBC claim issue (.2).	2.30	\$793.50
	DLJ	Work on issues and calculations related to deposit adjustments from various distributors and communications with G. Miller regarding the same (1.4). Create worksheet and analysis of updated claim amounts through June, including deposit adjustments (.8). Review operating reports to calculate and forecast revenues and expenses going forward (1.3). Review claims docket summary of schedules (.4). Review and recalculate scheduled amounts to Fadi and Iehab per the supporting schedules and draft summary of findings (1.3). Review royalty calculations and perform spot checks for various distributors (1.2). Communications with Kathy regarding adjustments, royalties, calculations and other issues (.7). Meetings and communications with G. Miller regarding various issues (.7). Work on valuation of intangible assets (.6).	8.40	\$1,722.00
08/15/12	GAM	Review and comment on revisions to Plan and its exhibits (1.2). Call with counsel to discuss CBC claim (.2).	1.40	\$483.00
	DLJ	Meetings with G. Miller to discuss analyses and updates (.5). Update calculations and schedules related to latest agreement with CBC on note balance and offsets (.8). Update memo of analyses and findings based on new information and negotiated agreements (1.4).	2.70	\$553.50
08/16/12	GAM	Review memo to file regarding CBC claim amount and discuss with staff (.2). Review final revisions to Plan and comment to counsel (.3). Prepare for and attend disclosure statement hearing (1.0).	1.50	\$517.50
08/22/12	GAM	Prepare for and attend disclosure statement hearing (.9). Calls with counsel regarding hearing preparation (.6).	1.50	\$517.50
	DLJ	Review data related to secured claim amount (.2). Communications with G. Miller concerning the same (.2).	0.40	\$82.00
08/23/12	GAM	Calls with counsel regarding amended plan and disclosure statement.	0.50	\$172.50
08/28/12	GAM	Prepare for and meet with T. Beckett to discuss LIB MP claim and Plan treatment (1.7). Calls and correspondence with counsel regarding escrow agreement (.3).	2.00	\$690.00
08/29/12	GAM	Conference calls with counsel regarding funding of escrow agreement.	0.30	\$103.50
09/11/12	GAM	Calls with counsel and client to discuss investor funding and possible changes to Plan.	0.40	\$138.00

Play Beverages, LLC

November 12, 2012

Date	Init.	Description	Hours	
09/21/12	GAM	Meet with counsel and client to discuss new plan terms and funding.	1.60	\$552.00
09/25/12	GAM	Review motion for post petition borrowings to fund estate and respond.	0.20	\$69.00
10/03/12	GAM	Call with counsel regarding conversion rate on new funding (.3). Review documents relating to new funding (.2).	0.50	\$172.50
10/04/12	GAM	Conference call with client and counsel regarding new funding and new plan terms (1.1). Review and approve motion regarding new funding and proposal to Playboy (.3).	1.40	\$483.00
10/05/12	GAM	Respond to client correspondence regarding Playboy lack of approvals.	0.10	\$34.50
10/08/12	GAM	Update call with counsel regarding Playboy proposal.	0.20	\$69.00
10/15/12	GAM	Call with counsel regarding Playboy letter (.1). Respond to D. Leta regarding fee questions (.2).	0.30	\$103.50
10/16/12	GAM	Call with client and counsel to discuss Playboy correspondence (.7). Call with client regarding Playboy letter (.1). Review and respond to counsel correspondence (.2).	1.00	\$345.00
10/18/12	GAM	Call with counsel regarding status conference and future strategy.	0.30	\$103.50
10/22/12	GAM	Conference call with client and counsel to discuss non-response.	0.50	\$172.50
10/23/12	GAM	Conference call with client and counsel regarding Chapter 7 motion (.4). Review motion to appoint trustee (.2). Review amended Playboy complaint (.2).	0.80	\$276.00
10/24/12	GAM	Review correspondence from litigation counsel.	0.20	\$69.00
10/25/12	GAM	Review and respond to draft financing documents.	0.20	\$69.00
10/29/12	GAM	Review and execute application to employ professionals (.2). Review draft motion and discuss US Trustee reports with staff (.3).	0.50	\$172.50
10/30/12	GAM	Review debtors reply in support of post petition financing and discuss with counsel (.2). Work on issues relating to preparation for hearing regarding financing of debtor (1.7). Meet with U.S. Trustee to discuss November 1 hearing (1.0)	2.90	\$1,000.50
10/31/12	GAM	Discussions with client and staff regarding debtor financials and present at hearing (.5). Call with T. Beckett regarding limiting his objection (.3). Meet with counsel to discuss debtor's financial statements (1.5). Call with counsel regarding delay of evidence hearing (.4).	2.70	\$931.50
	DLJ	Prepare for and meet with M. Boley, G. Miller, E. Van Stam and Iehab concerning financial reports and projections (2.3). Meeting with G. Miller regarding the same (.3). Create new reports and make updates to existing financial reports and propose alternative ways to more accurately present the data (1.6). Analyze and compile data related to claim reductions for CBC (.5). Analyze impact on financial reports including the claim reduction (.4).	5.60	\$1,148.00

Play Beverages, LLC

November 12, 2012

<u>Date</u>	<u>Init.</u>	<u>Description</u>	<u>Hours</u>	
		Meeting with G. Miller to discuss implementation of the claim reduction in reporting the financials (.2). Call with E. Van Stam to discuss changes in financial reporting (.3).		
SUBTOTAL:			[109.00	\$31,373.50]
<u>Case Administration</u>				
09/06/12	DNB	Review of current standing with respect to retainer paid and outstanding fees.	0.30	\$75.00
10/11/12	DLJ	Communications with E. Van Stam regarding billing and retainer issues.	0.20	\$41.00
10/15/12	DLJ	Reconcile retainer amount and provide to E. Van Stam (.3). Discuss with D. Bateman and R. Ereksen (.1).	0.40	\$82.00
10/16/12	DLJ	Deliver copy of September invoice to E. Van Stam.	0.20	\$41.00
10/22/12	DLJ	Multiple calls and communications with J. Hadlock and E. Van Stam concerning reconciliation of retainer (.4). Research past invoices and payments in order to identify discrepancy (.5). Meeting with staff to discuss the same (.2).	1.10	\$225.50
10/26/12	DLJ	Work on issues related to filing of monthly financial reports (.3). Communications with G. Miller regarding the same (.1).	0.40	\$82.00
10/29/12	DLJ	Review monthly operating reports for a six month time frame, agree cash to bank statements and propose changes (1.3). Communications with E. Van Stam regarding the same (.4). Review updated monthly operating reports for suggested changes and propose additional updates (.5). Meeting with G. Miller regarding the same (.2). Communications with counsel regarding the same (.2)..	2.60	\$533.00
10/30/12	DLJ	Review and compile all filed monthly financial reports since inception of filing (.8). Analyze case documents, notes, emails and analyses in order to determine CBC claim amounts and dates (.7). Communications with G. Miller regarding the same (.2). Identify and discuss discrepancies in monthly operating reports with G. Miller (.7). Analyze monthly operating reports and supporting financial statements and create balance sheet and income statements for all months since engagement (2.2).	4.70	\$963.50
SUBTOTAL:			[9.90	\$2,043.00]

Play Beverages, LLC

November 12, 2012

<u>Date</u>	<u>Init.</u>	<u>Description</u>	<u>Hours</u>	
<u>Fee Applications</u>				
07/13/12	GAM	Work on second interim fee application.	0.30	\$103.50
07/18/12	RE	Prepare second interim fee application.	1.30	\$104.00
	GAM	Review and approve fee application.	0.20	\$69.00
SUBTOTAL:			[1.80	\$276.50]

Total for professional services rendered	120.70	\$33,693.00
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<u>Expenses</u>				
<u>Parking</u>				
07/20/12	RE	Parking		\$5.00
SUBTOTAL:			[\$5.00]

Total expenses	\$5.00
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Total new charges	\$33,698.00
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Balance due	\$33,698.00
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Client funds transactions

Previous balance of Retainer	\$16,799.17
7/27/2012 Payment to account. Check No. Wire	\$10,000.00
8/22/2012 Payment from account	(\$14,375.98)
8/29/2012 Payment to account. Check No. Wire	\$10,000.00
9/7/2012 Payment to account. Check No. Wire	\$5,000.00
9/28/2012 Payment to account. Check No. Wire	\$20,000.00
New balance of Retainer	\$47,423.19